

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA
COURT FILE NO.: CV - _____**

Joseph Gualtieri Plaintiff, v. National Enterprise Systems, Inc. Defendant.	<u>COMPLAINT</u> <u>JURY TRIAL DEMANDED</u>
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JURISDICTION

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d).
2. This action arises out of Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA").
3. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and Defendant transacts business here.

PARTIES

4. Plaintiff Joseph Gualtieri is a natural person who resides in the City of Pittsburgh, County of Allegheny, Commonwealth of Pennsylvania, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).
5. Defendant National Enterprise Systems, Inc. (hereinafter "Defendant NES") is a foreign corporation and a collection agency operating from an address of 29125 Solon Road, Solon, Ohio 44139 and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

6. Plaintiff incurred a financial obligation that was primarily for personal, family or household purposes, that went into default for late payment, and is therefore a “debt” as that term is defined by 15 U.S.C. § 1692a(5), namely, a credit card, which was used by Plaintiff to make personal purchases of food, clothing, and shelter-related items.
7. The Plaintiff’s alleged debt was consigned, placed or otherwise transferred to Defendant for collection from Plaintiff, when thereafter Plaintiff started receiving collection communications from Defendant in an attempt to collect this debt.

Messages left on Plaintiff’s answering machine

8. Within the past year, the Defendant left messages on Plaintiff’s answering machine and failed to identify itself as a debt collector.
9. These calls from Defendant NES to Plaintiff are collection communications in violation of 15 U.S.C. § 1692e(11) the FDCPA.

Illegal Phone Call

10. On or about July 19, 2007, Ray King, an employee of Defendant NES, threatened to garnish Plaintiff’s wages, threatened to file suit and suggested Plaintiff retain legal counsel.
11. It is illegal in Pennsylvania for a debt collector to garnish wages.
12. The Plaintiff didn’t settle with Defendant NES.
13. NES did not institute legal proceedings.
14. Defendant NES had no intention of filing suit against the Plaintiff and the threat to file suit by Ray King and his suggestion that Plaintiff retain legal counsel created a false sense of urgency

15. This call from Defendant NES is a collection communication in violation of numerous and multiple provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692e, 1692e(4), 1692e(5), 1692e(10), and 1692f amongst others.

Summary

16. The above-detailed conduct by Defendant, of harassing Plaintiff in an effort to collect this debt violated numerous and multiple provisions of the FDCPA, including but not limited to all of the above mentioned provisions of the FDCPA.
17. Plaintiff has suffered actual damages as a result of these illegal collection communications by this Defendant in the form of anger, anxiety, emotional distress, fear, frustration, upset, humiliation, embarrassment, amongst other negative emotions, as well as suffering from unjustified and abusive invasions of personal privacy.

CAUSE OF ACTION

COUNT I.

VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692 et seq.

18. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
19. The foregoing intentional and negligent acts and omissions of the Defendant constitute a violation of the FDCPA including, but not limited to, each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.
20. As a result of Defendant's violations of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to

\$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from the Defendant herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against the Defendant:

COUNT I.

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692 et seq.

- for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) against the Defendant and for Plaintiff;
- for an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1); and
- for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against the Defendant and for Plaintiff.

Respectfully submitted,

Dated:

JEFFREY L. SUHER, P.C.

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